

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

RAMON BOYCE,

Petitioner, : Case No. 3:21-cv-216

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

TIM SHOOP, Warden,
Chillicothe Correctional Institution,

:
Respondent.

DECISION AND ORDER

This habeas corpus case, brought *pro se* by Petitioner Ramon Boyce, is before the Court on Petitioner's Supplement to his Motion to Expand the Record (ECF No. 36). Boyce's Motion notes that he had noticed omissions from the State Court Record as it was served on him; he previously moved to expand the record and the Court requested explanations of the individual items. *Id.* at PageID 4696. Petitioner's instant Motion lists the items sought to be added and offers an explanation as to each.

Because of the descriptions offered by Petitioner, the Court will not be able to decide the Motion appropriately without a response by State's counsel which should deal with the following questions:

1. To some extent the listed materials are already part of the record, albeit they have not been copied and filed as part of the State Court Record here. For example they may have been recorded by a court reporter but not transcribed. The Court is not prohibited from considering such materials

by *Cullen v. Pinholster*, 563 U.S. 170 (2011), or *Shinn v. Martinez Ramirez*, 596 U.S. ___, 142 S.Ct. 1718 (2022). To what extent do the described materials fit that description?

2. To the extent the requested materials are properly described as outside the record, the Court is precluded from considering them by Cullen and Shinn. Does Respondent object to producing any such materials?

3. To what extent are the requested materials relevant or material to the proof on any issue raised in the Petition? To what extent cumulative? Can Petitioner's proof concerns be resolved by stipulation?

4. Does Respondent have any other objections to the requests?

Respondent's response this Order must be filed not later than Respondent's due date for a response to Petitioner's pending Motion.

July 22, 2022.

s/ *Michael R. Merz*
United States Magistrate Judge